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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,767	10/01/2003	Michael Samuel	522.0001	7915
3404	7590	08/09/2005	EXAMINER	
PURDUE LAW OFFICES 2735 N. HOLLAND-SYLVANIA ROAD SUITE B-2 TOLDEO, OH 43615			CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/676,767

Applicant(s)

SAMUEL, MICHAEL

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18, 22-30, 32-34 is/are rejected.  
7) ☒ Claim(s) 19-21 and 31 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “preferably” on line 2 in claims 5 and 25 is vague and indefinite as it is not clear whether or not the claim encompasses the element after “preferably”.

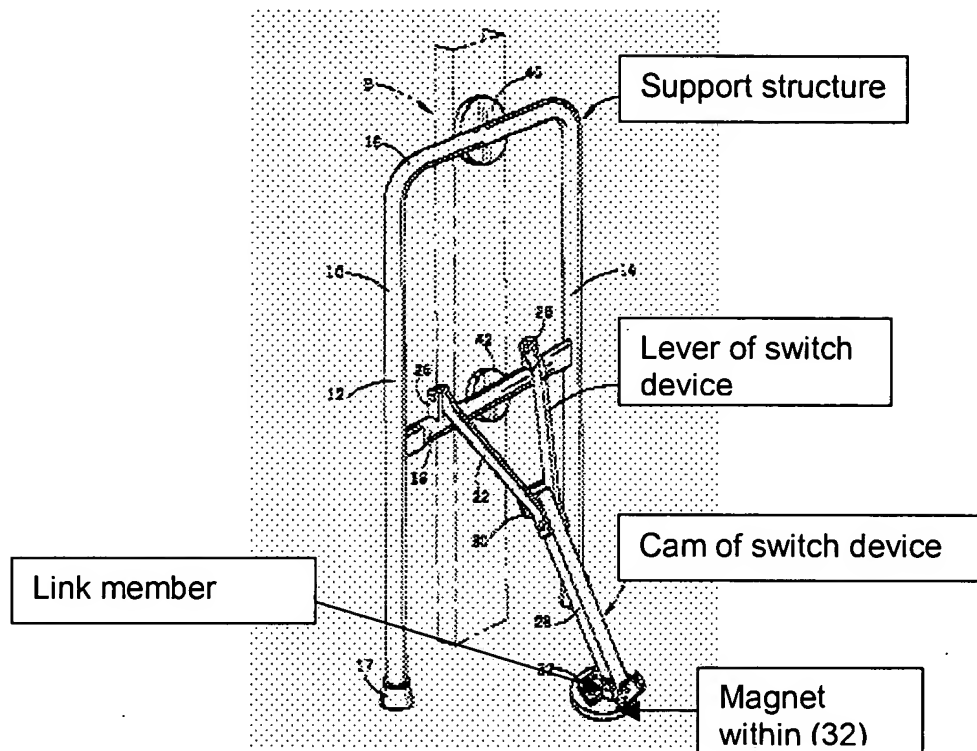
### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

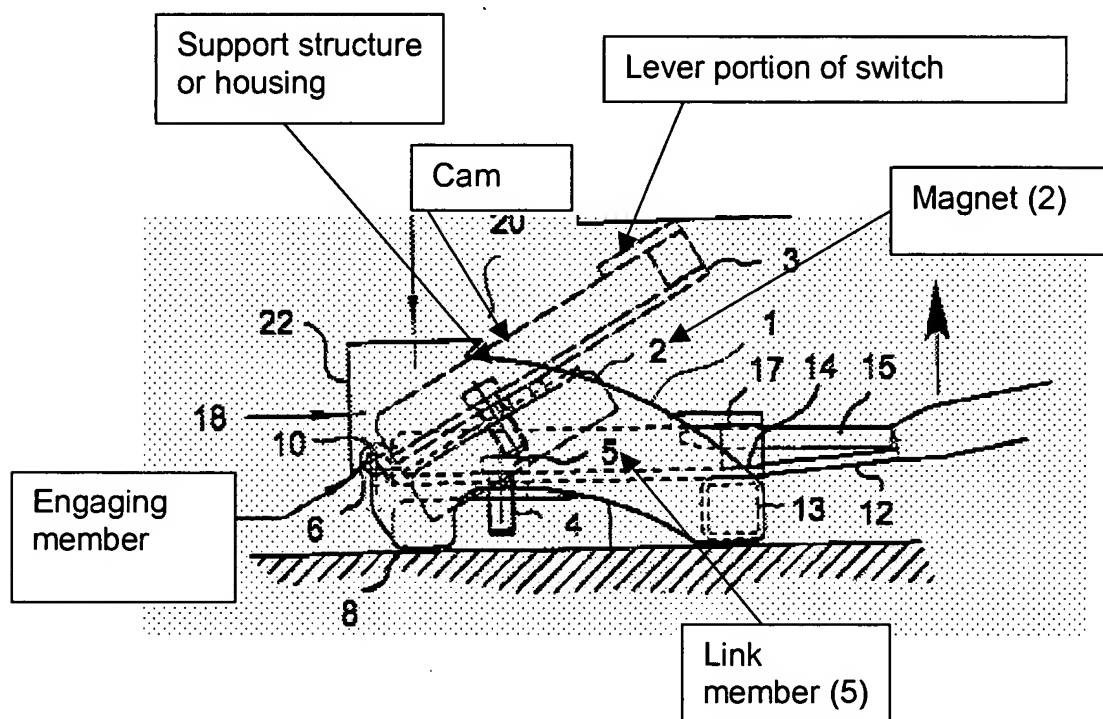
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Schillero, Jr. (US patent no. 6,029,407). Schillero Jr. disclosed all the claimed features of applicant's invention as illustrated below.



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Claims 1-4, 6-8, 10, 15, 16, 22-24, 26-30, 33, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Vappula (US patent no. 6,547,209). Vappula disclosed all the claimed features of applicant's invention as illustrated below



Claim 7 has a different interpretation than claims 8-10, where the lever is element (3) being detachably coupled to cam member (5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vappula (US patent no. 6,541,209). Vappula disclosed all the claimed features of applicant's invention except for the linking member formed with the magnet and the support device formed with the formwork member. It would have been an obvious matter of design choice to assemble the linking member with the magnet then attach to the lever or assemble the supported device with the formwork member as applicant has not stated such solves the stated problem. Moreover, separated pieces of Vappula would perform as well.

Claims 12-14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vappula (US patent no. 6,541,209) in view of Pietrobon (US publication 20030155683). Vappula disclosed all the claimed features of applicant's invention except for having aperture in the flange for attachment to the form and tilt adjuster or jack on a non-engaging side of the support structure. Pietrobon teaches a formwork support apparatus having apertures (40, figure 7) in the flange (46) for attachment to a formwork and a tilt adjuster or jack (54, figure 7) on the non-engaging side for tilt adjustment of the support to compensate for imperfections in the edge forms

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(page 3, paragraph 0056-0057). It would have been obvious to one of ordinary skill in the art to have modify the support apparatus of Vappula by substituting the engagement member of Vapplula with aperture on the flange for receiving fasteners as such as old and well-known in the art as demonstrated by Pietrobon and to provide tilt adjuster or jack on the non-engaging face of the housing for tilt adjustment of the support to compensate for imperfections in the edge forms as taught to be desirable by Pietrobon.

### ***Allowable Subject Matter***

Claims 19-21 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
August 5, 2005